RHB BANK BHD

v.

DOMINANCE TIMBER INDUSTRIES SDN BHD & ORS AND ANOTHER CASE

HIGH COURT SABAH & SARAWAK, SIBU
HAMID SULTAN ABU BACKER JC
[SUIT NOS: 22-19-2000 & 22-55-2002]
17 SEPTEMBER 2008

CONTRACT: *Guarantor - Guarantee - Liability - Claim against third defendant - Whether execution of guarantee subscribed to regular procedure and documentation of banks - Signature of third defendant - Whether witnessed by a witness of truth - Forgery - Allegation of - Whether proved - Whether signature proved to be that of third defendant*

EVIDENCE: *Expert evidence - Signature - Allegation of forgery - Whether proved - Whether expert's findings accepted by court - Whether more weight should be given to a truthful witness who gave fair presentation*

The plaintiff claimed against the third defendant as guarantor in respect of overdraft facilities granted to the first defendant. The second defendant was the father and the fourth defendant was the brother of the third defendant. The third defendant was not a director or shareholder of the first defendant though the fourth defendant was the shareholder and managing director of the first defendant. It was *inter alia* a term of letter of offer that the second, third and fourth defendants must execute joint and several guarantee. The first defendant company had passed a director resolution authorizing the fourth defendant to accept the letter of offer. However, the first defendant had defaulted and hence this claim. The third defendant's main contention was that his signature was forged and asserted that it was not his signature. He could not recall signing the said guarantee or/and did not request for the said facility. In addition to the evidence of the third defendant, he also relied heavily on the evidence of one handwriting expert from India.

Held (allowing plaintiff's claim with costs):

(1) The plaintiff's documentation from the letter of offer until the execution of the said guarantee subscribed to regular procedure and documentation of banks. The relevant documents have not been executed in suspicious circumstance or manner to create doubt as to the genuineness of the transaction. Notwithstanding the third defendant was not a beneficiary of the overdraft facility, the third defendant was closely connected with the second and fourth defendants. This was not an odd case where the guarantor, unknown to the plaintiff and/or had no nexus to the principal debtor, complained that his signature was forged, provoking the court to question the propriety of the transaction as a whole. The second to fourth defendants were men of substantial repute. It was a fundamental term of the letter of offer that the second to fourth defendants in sequence had to stand as guarantors. The joint and several guarantee had the name of the second to fourth defendants in sequence and the second to fourth defendants' signature were also in sequence witnessed by a solicitor who knew the second to fourth defendants. (para 7)

(2) It was the evidence of PW2, the solicitor who witnessed the execution of the guarantee, that he had witnessed the third defendant's signature in the said guarantee and that he was acquainted with the third defendant's signature as he had on many occasions been requested by the second and third defendants to witness their respective signatures in their family's various business ventures. PW2 was a witness of truth. PW2 was familiar with the signature of the third defendant. The third defendant had not instantly brought any action against the fourth defendant or for that matter PW2 notwithstanding the liability he was facing was a substantial amount. This showed that the third defendant in all honesty could not recall signing the guarantee and in consequence did not pursue productive remedy in law. Mere police report alone would not in all probability compensate his loss if true. It was only in civil action against the fourth defendant he could recover, notwithstanding there was some room for recovery under the law of guarantees after payment to the plaintiff. (para 7)

(3) The signature in the guarantee has been compared to that of other signatures of the defendant. This court was satisfied that it was the signature of the third defendant. The third defendant had relied heavily on the opinion of their expert from India to establish forgery. The Indian expert had described it as a bungling forgery or freehand forgery and said it was copied through the process of simulation with a piecemeal and laboured execution. This court disagreed with the Indian expert's findings after having gone through the standard text in this subject and personally comparing the relevant signatures. In contrast, the plaintiff's expert opinion, PW3, was a truthful witness who had sufficiently laid down the proper methodology and the reasons for his views and gave a fair presentation to assist the court. (para 7)

[Order accordingly.]

Case(s) referred to:

Abdul Rahman v. State of Mysore [1972] Cr LJ 407 ***(refd)***
Armagas Ltd v. Mundoga SA; 'The Ocean Frost' [1985] 1 Lyold's Rep 1 ***(refd)***
Elizabeth Chiew Yee Fung & Ors v. Leong Fook Ngen & Ors [2001] 3 CLJ 729 HC ***(refd)***
Fakhruddin v. State of Madhya Pradesh AIR [1967] SC 1326 ***(refd)***
Hari Singh v. Lachhman Dassi, AIR [1921] Lahore 126 ***(refd)***
Lee Ing Chin & Ors v. Gan Yook Chin & Anor [2003] 2 CLJ 19 CA ***(refd)***
Patel Harilal Mahanlal Jivani v. The State of Gujarat Cri LJ Noc 45 ***(refd)***
R v. Silverlock [1864] 2 QB 766 ***(refd)***
Ram Narain v. State of UP AIR [1973] SC 2200 ***(refd)***
State of Gujarat v. Vinayaga Chandre [1967] AIR SC 778 ***(refd)***

Legislation referred to:

Evidence Act 1950, ss. 5, 45, 47, 48, 49, 50, 60, 67, 68, 69, 70, 71, 72, 73

Other source(s) referred to:

Russel A Gregory, *Identification of Disputed Documents, Fingerprints and Ballistics*, 4th edn, p 86
Sarkar's on Evidence, 14th edn, vol 1, pp 808, 809

For the plaintiffs - Jammie Tai Kie Mie; M/s Tang & Partners
For the defendants - Sunny Si; M/s Si & Assoc

Reported by Suhainah Wahiduddin

A

JUDGMENT

Hamid Sultan Abu Backer JC:

[1] This is my judgment in respect of the plaintiff's claim against the 3rd defendant as guarantor in respect of overdraft facilities granted to the 1st defendant. In suit No. 22-55-2002 the 3rd defendant is the plaintiff and claims for a declaration that the guarantee is null and void, etc.

B

Brief Facts

C

[2] The 2nd defendant is the father and the 4th defendant is the brother of the 3rd defendant. Both the 2nd and 4th defendants had passed away after the commencement of the action. The 3rd defendant is not a Director or Shareholder of the 1st defendant though the 4th defendant was the Shareholder and Managing Director of the 1st defendant. The letter of offer dated 30 September 1994 was accepted by the 4th defendant. It was *inter alia* a term of letter of offer that the 2nd, 3rd and 4th defendants must execute joint and several guarantee. The 1st defendant company had passed a director resolution authorising the 4th defendant to accept the letter of offer. There are many other documents which have the signature of the 4th defendant to show the propriety of the transaction. The 1st defendant has defaulted and hence this claim.

D

E

F

The 3rd defendant's main contention was that his signature was forged and asserts that it is not his signature. He cannot recall signing the said guarantee or/and did not request for the said facility. In addition to the evidence of 3rd defendant, the 3rd defendant relies heavily on the evidence of one handwriting expert, from India.

G

Preliminaries

[3] Three witnesses gave evidence for the plaintiffs and two witnesses for the 3rd defendant. The plaintiffs led evidence to establish its case. The solicitor, (PW2) who witnessed the execution of the guarantee gave evidence. A handwriting expert by the name of Mr. Harcharan Sing Tara (PW3) gave evidence in support of the plaintiffs' case. I take the view that it is not necessary for me to rely on expert evidence unless I am in doubt of the signature. Further, I do not see much merit in the 3rd

H

I

defendant's contention that he did not request for the said facility. The real issue is whether the signature of the 3rd defendant is genuine and not a forgery.

Evidence

[4] PW2 testified that he witnessed the 3rd defendant's signature in the said guarantee and that he is acquainted with the 3rd defendant's signature as he had on many occasions from time to time been requested by the 2nd and 3rd defendants to witness their respective signatures in their family's various business ventures, both locally and overseas. PW2 claimed that the 3rd defendant's signature therein is a genuine one. The 3rd defendant in his evidence confirmed that he knew PW2 and that PW2 has witnessed some of his overseas documents before. Based on this evidence, the plaintiffs say it is a well established general guide to the judicial appreciation of handwriting evidence that where there is a sharp conflict between the direct testimony of a disinterested witness on the one side and that of a handwriting expert on the other as to the genuineness of the execution of a document, then it is a safe course for the court to prefer the direct evidence. (See *Lee Ing Chin & Ors v. Gan Yook Chin & Anor* [2003] 2 CLJ 19).

[5] PW3 stated that in his opinion the 3rd defendant's signature in the said guarantee is a genuine one, and *inter alia* in his report says:

> No signature should be pronounced or declared as forgery if it only diverges in some respect of letter design. The following should be taken into consideration: Natural Variation, speed of writing, environmental conditions of writing. More importantly, in the signatures "Q1",and "Q2" there was not an *iota* of evidence of the usual features of forgery *viz*. no evidence of "delicate" retouching, touch-ups, unusual pen lifts and hesitation or bad line quality of forgery.

In mark contrast, the 3rd defendant's expert (DW2) opinion *inter alia* says as follows:

> 1. The suspected signature marked Q-1 on the Bank Guarantee pertaining to RHB Bank dated 05-10-1994 is a crude and bungling forgery and has not been written by the author of the authentic signatures marked S-series i.e. "Alexander Ling Lee Soon".

2. The above-mentioned suspected signature marked Q-1 is a freehand forgery as clear as the snow on the house top and is copied through the process of simulation with a piecemeal & laboured execution.

3. It appears that the origin of the suspected signature marked Q-1 on the RHB Bank Guarantee dated 05-10-1994 is inspired from the authentic signature marked 5-5 or a model akin to it as is revealed through the imitation of external formations.

Submission

The plaintiffs and 3rd defendant's counsel have submitted their arguments in length to assert their case respectively. In fact, the 3rd defendant's counsel submission runs into approximately 200 pages. I think it will serve no useful purpose to set out their arguments. It is sufficient for the court to deal on the issue of whether the signature is genuine or a forgery.

Law Relating To Signatures

(i) Section 67 of Evidence Act 1950 states as follows:

> If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting shall be proved to be in his handwriting.

Under this section there is a requirement not only to prove the existence of the document but also to prove the signature and or handwriting of the person concerned. Thus, a party who exhibits a document must also prove that the document was written or signed by the concerned person. Sections 67 to 73 deal with the mode of the proof of the execution of documents. If a document is alleged to be signed or written by any person, then the document must also be proved to be in his handwriting. Thus, producing a document by itself does not dispense with the need to prove the executant. The handwriting of a person may be proved in the following ways: (a) by the evidence of the writer himself (see s. 60 and s. 67); (b) by the evidence of another person who has seen him writing the document (see s. 60 and s. 68); (c) by the evidence of a person who is acquainted with the handwriting

of a person by whom the writing in question is supposed to have been written and signed (s. 47); (d) by the evidence of handwriting expert (s. 45); (e) comparison by the court, of the writing or signature in question with any others proved to the satisfaction of the court to be genuine (see s. 73); (f) the court may direct the person who is alleged to have written the document to write any word or figure to enable the court to compare.

(ii) Section 68 sets out the principle relating to proof of execution of a document which is required by law to be attested. The word 'attested' is not defined in the Act. 'Attested' means that a person has signed the document by way of testimony to the fact that he saw it executed. Under this provision when a document is required by law to be attested, then at least one attesting witness must be called to prove the execution of the document before the document is made admissible. If no attesting witness is available s. 69 will apply. Attestation of a document in some cases is mere formality and not a requirement of law. However, in some cases it is mandatory. The object of attestation is only to afford proof of the genuineness of the document. This section is only applicable when documents need to be attested by law. Even when secondary evidence of a document is given, an attesting witness must be called.

(iii) Section 45 deals with the relevancy of opinion of experts in relation to s. 5 of the Act. This section is an exception to the general rule that the opinion of witnesses is not relevant. An expert is a person who has acquired knowledge, skill or experience, in any science, art, trade or profession; such knowledge may also have been acquired by practice, observation or careful studies. Thus, there is no necessity for the expert to have a professional qualification. In *Abdul Rahman v. State of Mysore* [1972) Cr. LJ 407, the court admitted the opinion evidence of a goldsmith even though he did not have professional qualifications other than experience. It must be emphasised that before expert evidence is admitted the following requirements must be satisfied: (a) the issue before the court is one in which expert testimony is necessary; (b) the witness is an expert in that particular field in relation to the issue before the court. Under this section an expert

A opinion is relevant when the issue involves; (a) foreign law; or (b) science; or (c) art; or (d) identity of handwriting; (e) finger impressions.

When expert opinion is offered on any subject stated above, B the court must be satisfied that it is a subject on which it needs special knowledge to arrive at a decision. Under the section, experts can give evidence as to the identity of handwriting or finger impressions. In *R v. Silverlock* [1864] 2 QB 766, the court stated that even a solicitor can be treated C as an expert in handwriting even if he had acquired his knowledge as an amateur. It must be noted that the opinion of a handwriting expert is made relevant, under the section. However, it need not mean that his opinion is conclusive. (See *State of Gujarat v. Vinayaga Chandre* [1967] AIR SC 778).

D (iv) Section 47 says opinion in respect of identity of handwriting by ordinary witness as opposed to expert witness as stated in s. 45 is made relevant. There are also other sections namely ss. 48, 49, 50 which allow opinion evidence of ordinary persons to be relevant. Thus, s. 45 refers to opinion of expert E witnesses and ss. 47 to 50 refer to opinion evidence of ordinary witnesses. Under this section, a person who is not an expert may give evidence as to his acquaintance with the handwriting or signature of the person, which is in issue. Sections 45 and 47 were considered by the Indian Supreme F Court in *Ram Narain v. State of UP* AIR [1973] SC 2200 where the court stated:

> Both under sec. 45 and sec. 47 the evidence is an opinion; in the former by a in scientific comparison and in the latter G on the basis of a familiarity resulting from frequent observation. In either case, the court must satisfy itself by such means as are open that the opinion may be acted upon. One such means is to apply its own observation to the admitted or proved writings, not to say handwriting expert but to verify the opinion of the witnesses. This is H not to say that the court may plan the role of an expert but to say that the court may accept the fact only when it has satisfied itself of its own observation that it is safe to accept the opinion of the expert or the other witnesses.

I

In *Fakhruddin v. State of Madhya Pradesh* AIR [1967] SC 1326, it was stated that the handwriting may be proved by the evidence of a witness in whose presence the writing was done and this would be direct evidence; and if available the evidence of any other kind is rendered unnecessary.

[6] There are number of cases which throw light on this area of law. Some of those that relate to the purpose of the instant case are as follows:

(i) In *Hari Singh v. Lachhman Dassi*, AIR [1921] Lahore 126:

> Expert opinion must always be received with great caution but perhaps none so with more caution than the opinion of the handwriting experts. These gentlemen stand on an impregnable fortress of their own and invariably give their emphatic opinions. They talk in terms of pseudo science and try to create an impression by talking glibly of pen pressure, pen-hold, pen-scope, pen-pause, pen-presentation, pen-lift, hand movement, irregular movement, angle of pen, retouchings, joinings, change of pivots, under-stroke, cross-bar, loops of many kinds, embellishments, terminals and numerous other things not easily intelligible to laymen. Almost all of them have favourite theory of their own which they tend to apply with a firm conviction. They are a type of remunerated witness and like others of that class have an unconscious bias in favour of the party calling. The fact that they know beforehand why they have been called and what the parties wish them to prove, detract to a great extent from the weight to be given to their opinion. Some handwriting experts even do not hesitate to claim infallibility.
>
> In the case of a disputed will, a handwriting expert, who was examined on the caveater's side to prove that it was a forgery, affirmed that his opinion on the subject of that Will was absolutely infallible. The Court rejected his testimony and said he was making a claim which was wholly untenable.

(ii) In *Elizabeth Chiew Yee Fung & Ors v. Leong Fook Ngen & Ors* [2001] 3 CLJ 729:

A

Where an allegation is one of forgery the facts and circumstances in relation to the part played by a party or parties alleged to have been involved in the forgery should be taken into account.

B

(iii) In *Lee Ing Chin & Ors v. Gan Yook Chin & Anor* [2003] 2 CLJ 19:

The onus of establishing any extraneous vitiating element such as undue influence fraud or forgery lay on those who challenged the will, in this case, the plaintiffs. …

C

Judicial appreciation of evidence meant that a judge who was required to adjudicate upon a dispute must arrive at his decision on an issue of fact by assessing, weighing and, for good reasons, either accepting or rejecting the whole or any part of the evidence placed before him. He must, when

D

deciding whether to accept or to reject the evidence of a witness, test it against relevant criteria. Thus, he must take into account the presence or absence of any motive that a witness may have in giving his evidence. Where contemporary documents existed, he must test the oral evidence of a witness against these. He must also test the

E

evidence of a particular witness against the probabilities of the case. The principle central to appellate interference is that a decision arrived at by a trial court without judicial appreciation of the evidence may be set aside on appeal.

F

(iv) In *Armagas Ltd v. Mundoga SA; 'The Ocean Frost'* [1985] 1 Lyold's Rep 1:

It is frequently very difficult to tell whether a witness is telling the truth or not; and where there is a conflict of evidence such as there was in the present case, reference

G

to the objective facts and documents, to the witnesses' motives, and to the overall probabilities can be of very great assistance to a judge in ascertaining the truth.

(v) In *Sarkar's on Evidence* (14th edn.) vol. 1 (p. 809):

H

Expert's evidence is only a piece of evidence and external evidence. Expert's evidence is only a piece of evidence, which has to be considered along with the other pieces of evidence. Which is the main evidence and which is the corroborative one depends on the facts of each case. Expert

I

evidence can never be conclusive, because it is, after all, opinion evidence. Expert's evidence as to handwriting being opinion evidence; can rarely, if ever, take the place of

substantive evidence. Before acting on such evidence it is usual to see whether it is corroborated either by clear direct evidence or by circumstantial evidence.

[7] I have heard the evidence, read the documents and submissions of the parties filed herein. I take the view that the plaintiffs' claim must be allowed. My reasons are as follows:

(i) It is my finding that the plaintiffs' documentation from the letter of offer until the execution of the said guarantee, subscribes to regular procedure and documentation of banks. The relevant documents have not been executed in suspicious circumstance or manner to create doubt as to the genuineness of the transaction. In this case, notwithstanding the 3rd defendant is not a beneficiary of the overdraft facility, the 3rd defendant is closely connected with the 2nd and 4th defendants. This is not an odd case where the guarantor, unknown to the plaintiff and/or has no nexus to the principal debtor, complains that his signature was forged, provoking the court to question the proprietary of the transaction as a whole. The 2nd to 4th defendants are men of substantial repute. In this case, it was a fundamental term of the letter of offer that the 2nd to 4th defendants in sequence had to stand as guarantors. The joint and several guarantee has the name of the 2nd to 4th defendants in sequence and the 2nd and 4th defendants' signature are also in sequence witnessed by a solicitor who knows the 2nd to 4th defendants.

(ii) There is no general requirement in law for agreements or guarantees to be witnessed or attested. At times the word attested is loosely used to describe witnessing of signatures. Documents only need to be attested when the law requires it to be done so. When a document is attested the attesting witness must be called for the purpose of proving its execution. In the instant case, there is no requirement, in law for the guarantees to be witnessed or attested. However, commercial prudence will dictate that it be signed and witnessed. It will be more prudent for financial institutions to obtain 'thumb print' in addition where money is not directly paid to the executant, for example in the case of guarantees, to avoid unnecessary and costly litigation which also adds to back-log of cases in court. In fact as 'thumb print' evidence is the best evidence in contrast to signatures, then financial

institutions themselves ought to move for legislation to make it mandatory for guarantees or any other relevant financial documents to be executed with 'thumb print' impression of the executants.

(iii) In this case, the evidence of PW2 was severely attacked without much legal basis. It is my finding that PW2 is a witness of truth. I do not think any solicitor will want to witness the signature of 2nd to 4th defendants who are prominent personalities without their instruction. It is not a *sine qua non* for witnessing of the signature for the executants to be physically present before witnessing a signature. It has been a long practice in witnessing of signatures that it can be done even in the absence. This is reflected in the form in the Power of Attorney Act 1949 which reads as follows:

Form I

Form Of Authentication In Case Of A Power Of Attorney Executed By An Individual

I ... (Magistrate, Justice of the Peace, Land Administrator, Notary Public, Commissioner for Oaths, Bank Official *or* Advocate and Solicitor of the High Court in Malaya) officiating [*or* practising] at ..., hereby certify that the $\frac{\text{signature}}{\text{thumb-mark}}$ of the donor above named was $\frac{\text{written}}{\text{affixed}}$ in my presence on this ... day of ... 20 ..., and is, to my own personal knowledge, [*or* according to information given to me by trustworthy and respectable persons, namely ... of ... and ... of ..., which information verily believe,] the true $\frac{\text{signature}}{\text{thumb-mark}}$ of ... who has acknowledged to me that he $\frac{\text{is}}{\text{is not}}$ of full age and that he has voluntarily executed this instrument.

Witness my hand ...

(iv) Further, the law gives many options for the plaintiff to prove the signature. One such mode is that by the evidence of a person who is acquainted with the signature of the person who is supposed to have signed it. In this case, it cannot be doubted that PW2 was familiar with the signature of the 3rd defendant. This issue was not challenged. Further, the 3rd defendant being a busy corporate personality was quiet frank in saying that he cannot recall signing the guarantee. The guarantee was executed in 5 October 1994 but the 3rd defendant says he came to know only in early January 2000. In addition, the 3rd defendant has not instantly brought any action against the 4th defendant or for the matter PW2 notwithstanding the liability he is facing is a substantial amount. All this goes to show that the 3rd defendant in all honestly could not recall signing the guarantee and in consequence did not pursue productive remedy in law. Mere police report alone will not in all probability compensate his loss if true. It is only in civil action against the 4th defendant he could recover, notwithstanding there is some room for recovery under the law of guarantees after payment to the plaintiff. (See *Elizabeth Chiew Yee Fung & Ors v. Leong Fook Ngen & Ors (supra)*).

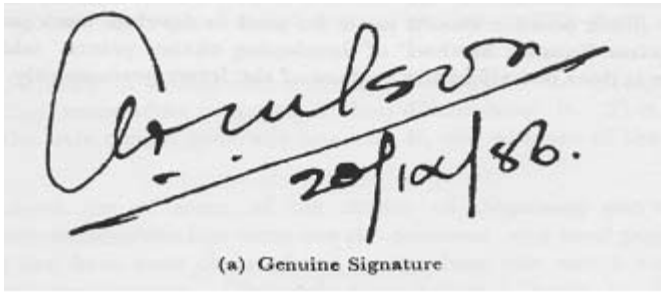
(v) In addition, I have compared the signature in the guarantee and that of other signatures of the defendant. I am satisfied that it is the signature of the 3rd defendant. In consequence and on the facts of this case, it is not really necessary for me to consider the evidence of expert evidence in law. Further, in this case the expert opinion instead of helping the cause of justice, creates confusion. In such circumstance, I think the safer approach is to discard the opinions and decide the case on the basis of other evidence. (See *Patel Harilal Mahanlal Jivani v. The State of Gujarat* Cri LJ Noc 45).

(vi) In the instant case, the 3rd defendant relied heavily on the opinion of their expert from India to establish forgery. I have gone through the report in detail and contrasted with the report of the plaintiff's expert opinion by Mr. Harcharan Sing Tara (PW3). I take the view that PW3, a Malaysian citizen is over qualified to give evidence as handwriting expert. This is so because the law even permits a person to give evidence as an expert in respect of handwriting even if he had acquired

his knowledge as an amateur. I find PW3 as a truthful witness who has sufficiently laid down the proper methodology and the reasons for his views and given a fair presentation to assist the court. In contrast, the Indian expert has described it as a bungling forgery or freehand forgery and says it is copied through the process of simulation with a piecemeal and laboured execution. I disagree with his findings after having gone through the standard text in this subject and personally comparing the relevant signatures. I do not think it is necessary to bring to the court an expert from India if it is a case of bungled forgery or freehand forgery. It would have been much easier for the 3rd defendant to bring a person to the court who can demonstrate to the satisfaction of the court that the signature of 3rd defendant can be easily forgered and that his signature was actually forged. The law does not prohibit the 3rd defendant from doing so. For example, the learned author Russel A. Gregory in his book *"Identification of Disputed Documents, Fingerprints and Ballistics"* 4th edn at p. 86 demonstrates the two types of forgery, which is reproduced below:

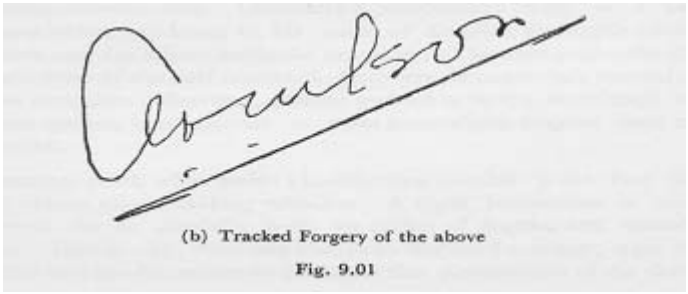
> Forgeries may be classed in two categories. 'Freehand' and 'Traced'. (Fig. 9.01). Freehand forgeries are those forgeries that are made freehand and copied from a model, whether real or imaginary. Traced forgeries are made by tracing the writing or signature from some model.

(a)



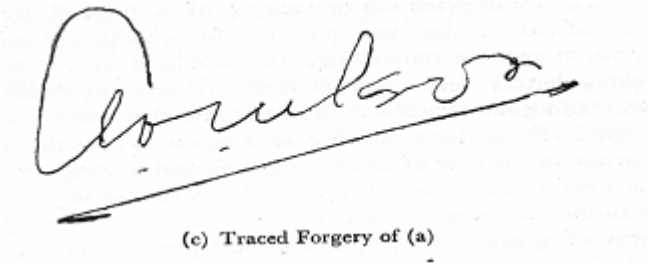
(a) Genuine Signature

(b)



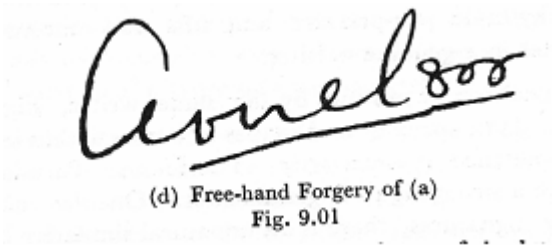
(b) Tracked Forgery of the above
Fig. 9.01

(c)



(c) Traced Forgery of (a)

(d)



(d) Free-hand Forgery of (a)
Fig. 9.01

(vii) The Indian experience of handwriting expert's opinion has been captivated by the learned author *Sarkar on Evidence* (14th edn.) vol. 1 at p 808 which reads as follows:

> Expert opinion must always be received with great caution, but perhaps none so with more caution than the opinion of handwriting experts. These gentlemen stand in an impregnable fortress of their own and invariably give emphatic opinion. They talk in terms of pseudo science and try to create an impression by talking glibly of pen-pressure, pen-hold, pen-scope, pen-pause, pen-presentation,

A pen-lift, hand-movement, irregular movement, angle of pen, retouchings, joinings, change of pivot, under-stroke, cross-bar, loops of many kinds, embellishments, terminals and numerous other things not easily intelligible to laymen. Almost all of them have a favourite theory of their own which they tend to apply with a firm conviction. They are a type of remunerated witnesses and like others of that class have an unconscious bias in favour of the party engaging them. Moreover, their opinions are previously ascertained and they are brought only when they are favourable to the party calling. The fact that they know beforehand why they have been called and what the party calling wishes to be proved, detracts to a great extent from the weight to be given to their opinion. **Some handwriting experts do not even hesitate to claim infallibility.** (emphasis added)

[8] For reasons stated above the plaintiff's claim must be allowed with costs. The judgement sum shall reflect the statement of account dated 31 December 1999 produced in court to reflect prayer (a) of the statement of claim. The getting up fees shall not exceed RM100,000. If costs cannot be agreed the plaintiff is at liberty to tax the costs. Parties are to settle the said order, if necessary before the deputy registrar.

I hereby order so.